

a libel praying seizure and condemnation of 16 bottles of Fisher's Pugilitis Pendicitis; 6 jars of Fisher's Columbine Massage Cream, and 2 bottles of Fisher's Massage Liniment at Tucson, Ariz.; alleging that the articles had been shipped in interstate commerce on or about February 7, 1938, from Denver, Colo., by George B. Fisher; and charging misbranding of all the products and adulteration of Fisher's Massage Liniment in violation of the Food and Drugs Act as amended.

Analyses of samples showed that the articles consisted essentially as follows: (Pugilitis Pendicitis) of water, alcohol, magnesium sulphate, and flavoring materials; (massage cream) of petroleum oil and perfume; and (liniment) of water and alcohol (8.9 percent by volume) with small proportions of ammonium carbonate and iodides.

The liniment was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold, namely, "Alcohol 26.88%," since it contained less than 26.88 percent of alcohol.

It was alleged to be misbranded in that its package failed to bear on its label a statement of the quantity or proportion of alcohol contained therein, since the declaration of alcohol was incorrect. It was alleged to be misbranded further in that the following statement borne on the label falsely and fraudulently represented its curative or therapeutic effects: (Bottle) "For Developing the Breast and Chest \* \* \* For Cuts"; (carton) "Burns, Cuts, \* \* \* Etc. \* \* \* It Relieves Pain It eases a sore side It Beats the World to use in Childbirth."

The Pugilitis Pendicitis was alleged to be misbranded in that the following statement appearing on the carton was false and misleading since it created the impression that the article had been examined and approved by the Government of the United States, that the Government guaranteed that it complied with the law and that the article did so comply; whereas it had not been so approved and guaranteed and did not comply with the law: "Guaranteed by The Fisheropathic College Association under the Pure Food and Drugs Act, June 30, 1906. Serial No. 4533." It was alleged to be misbranded further in that certain statements set forth in a booklet contained in the package falsely and fraudulently represented the curative or therapeutic effectiveness of the article in the treatment of appendicitis, ptomaine poisoning, malnutrition, autotoxaemia, abscess, ovarian or uterine (leucorrhoea), gastritis, peritonitis, amenorrhoea (absence of menstrual flow), blood poisoning, child bearing (septicaemia or pyaemia), constipation, and hay fever.

The massage cream was alleged to be misbranded in that the following statements appearing in a circular contained in the package falsely and fraudulently represented the curative or therapeutic effectiveness of the article: "For \* \* \* Developing the Bust, Removing Wrinkles, Freckles, Black-heads, Skin Eruptions, Eczema, Scalp Diseases, Ring-Worms, \* \* \* Shingles, Baby-Rash, Moth-Marks, Etc. \* \* \* Dandruff and Scalp Disease—\* \* \* Apply \* \* \* until scalp and hair feels \* \* \* healthy. \* \* \* For harsh voice, croup, sore chest, pneumonia, flu, asthma, or whooping-cough, a small piece swallowed will afford immediate relief. If lungs are sore and congested, as in flu or pneumonia, note instructions in the ten-minute study for using the Fisher Food Remedies."

On April 5, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**29008. Adulteration and misbranding of Kalms. U. S. v. 161 Packages of Kalms. Default decree of condemnation and destruction. (F. & D. No. 41679. Sample No. 1374-D.)**

The labeling of this product bore false and fraudulent curative and therapeutic claims and false and misleading statements that it was a safe medicament, whereas it was dangerous. The article also contained less aminopyrine than declared on its label.

On February 11, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 161 packages of Kalms at Baltimore, Md.; alleging that the article had been shipped in interstate commerce on or about October 6 and November 30, 1937, from New York, N. Y., by Seabury, Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article, which was in tablet form, consisted essentially of aminopyrine (2½ grains per tablet), antipyrine, and caffeine.

The article was alleged to be adulterated in that its strength fell below the professed standard under which it was sold, namely, (on the metal container) "Kalms Formula \* \* \* Amidopyrin 3 grains."

The article was alleged to be misbranded in that the device Kalms upon the retail container and display carton, and the statements upon the display carton, "Relief For Headache Neuralgia Muscular & Rheumatic Pain \* \* \* that storm of Pain will yield to Kalms \* \* \* Kalms are suggested for Colds \* \* \* Headache, Neuralgia, Muscular and Rheumatic Pain," and the statements on the retail container, "Rapid Pain Relief For headache, colds, neuralgia, muscular and rheumatic pains \* \* \* Kalms Formula Antipyrin 2 grains Amidopyrin 3 grains Caffein  $\frac{1}{2}$  grain Directions Take one or two Kalms tablets at first indication of pain. If relief does not follow in half hour, take one tablet. Do not repeat dose thereafter for two hours," were false and misleading since they created the impression that the article if taken as directed was a safe medicament; whereas when taken as directed, it was a dangerous medicament.

It was alleged to be misbranded further in that the foregoing statements and device were false and fraudulent since they created the impression that when used as directed, it was a safe and appropriate medicament for the disease conditions mentioned; whereas it was a dangerous medicament; and in that the following statements appearing on the retail container and the display carton also falsely and fraudulently represented its curative and therapeutic effects since it contained no ingredient or combination of ingredients capable of producing the effects claimed: (Retail metal container) "Rapid Pain Relief For \* \* \* neuralgia \* \* \* and rheumatic pains"; (display carton) "Relief For \* \* \* Neuralgia \* \* \* & Rheumatic Pain Kalms are suggested for \* \* \* Neuralgia \* \* \* and Rheumatic Pain That storm of Pain will yield to Kalms."

On June 16, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**29009. Adulteration and misbranding of Gauztex. U. S. v. 8 Gross of Gauztex. Default decree of condemnation and destruction. (F. & D. No. 41943. Sample No. 8611-D.)**

This product was represented to be sterile but was unsterile. Furthermore, its labeling contained false and fraudulent curative and therapeutic claims.

On March 11, 1938, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 8 gross of Gauztex at Detroit, Mich.; alleging that the article had been shipped in interstate commerce on or about February 8, 1938, from Chicago, Ill., by the Gauztex Corporation; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Examination of a sample of the article showed that it contained viable aerobic and anaerobic or facultative anaerobic micro-organisms.

The article was alleged to be adulterated in that its purity fell below the professed standard or quality under which it was sold, namely, (on the carton) "Sterilized Contains Nothing \* \* \* Injurious" and (on the circular enclosed in the package) "Gauztex is sterilized," in that it was not sterile but contained viable micro-organisms.

It was alleged to be misbranded in that the statements on the carton, "Sterilized Contains Nothing \* \* \* Injurious," "Fully Guaranteed For One Year," "Allows healing circulation of air," and "It is safe," and the statements on the circular, "Surgical gauze," "With Gauztex it is easy to protect all cuts or other injuries—large or small," "Gauztex protects the wound thoroughly," and "Gauztex is sterilized—safe to use," were false and misleading since they represented that the article was sterile; whereas it was not sterile but contained viable micro-organisms.

Misbranding was alleged further in that the following statements appearing in the labeling falsely and fraudulently represented the curative and therapeutic effectiveness of the article since it contained no ingredient or combination of ingredients capable of producing the effect claimed: (Carton) "Allows healing circulation of air," "It is safe"; (circular) "Safe \* \* \* surgical gauze \* \* \* With Gauztex it is easy to protect all cuts or other injuries—large or small. \* \* \* Bandage directly over small cuts, scratches or burns